

RESOLUTION NO. _____

**A RESOLUTION ADOPTING A SPECIFIC PLAN FEE
TO RECOVER CITY COSTS INCURRED IN PREPARING
THE TRANSIT AREA SPECIFIC PLAN**

RECITALS

WHEREAS, the City Council seeks to impose a fee to recover the costs incurred by the City in preparing the Transit Area Specific Plan, under the authority of California Government Code §65456; and

WHEREAS, the City has commenced planning efforts in support of the Transit Area Specific Plan's adoption by contracting with professional consultants, Dyett and Bhatia Urban and Regional Planners to prepare the Specific Plan and any other necessary reports, documents and declaration; and

WHEREAS, state law requires consistency between a city's specific plan, general plan and all of its planning policies and decisions; and

WHEREAS, the costs of preparing Phase I and Phase II of the Specific Plan are as follows:

Phase I consultant costs	\$108,000
Phase I staff costs	\$124,248
Phase II consultant costs	\$522,635
Phase II staff costs	\$490,034
City Attorney costs	\$20,100
Swinerton costs	\$30,600
Advertising, copying & mailing costs	\$35,080
Total	<u>\$1,330,697</u>

The net developable area within the Transit Area Specific Plan is 15,883,113.84 square feet. This figure reflects the square footage of developable area in parcels shown on record maps. The cost per square foot for the Transit Area Specific Plan would be \$1,330,697 divided by 15,883,113.84 or 8.37806 cents per developable square foot. The staff costs include the City's overhead costs, such as personnel, maintenance, operation, professional services, and capital costs related to the preparation of this Specific Plan and administration of this fee program.

WHEREAS, absent the fee (hereafter "Specific Plan Fee" or "Fee") established by this resolution, the City alone will bear the costs of preparing the Specific Plan; and

WHEREAS, staff recommends adopting a Fee calculated to recover the full costs incurred by the City in preparing the Specific Plan; and

WHEREAS, in adopting the Fee set forth in this resolution, the City Council of the City of Milpitas is exercising its powers under Article XI, Section 7 of the California Constitution; and

WHEREAS, at least 14 days prior to the public hearing at which this resolution was adopted, notice of the time and place of the hearing was mailed to eligible interested parties, including those who filed written requests with the City for mailed notice of meetings on new or increased fees or service charges; and

WHEREAS, all documents related to recovering the cost of the Specific Plan were available for public review and comment for ten days prior to the public hearing at which this resolution was adopted; and

WHEREAS, 10 days advance notice of the public hearing at which this Resolution was adopted was given by publication; and

FINDINGS

WHEREAS, the City Council of the City of Milpitas finds as follows:

A. The purpose of the Fee set forth in this resolution is to recover up to the full recoverable costs incurred by the City in preparing the City's Transit Area Specific Plan.

B. After consideration of the information in this resolution, the testimony received at a noticed public hearing, the agenda report, the background documents to the agenda report, and all correspondence received, the City Council of the City of Milpitas concludes that developers and property owners seeking to exercise entitlements, building permits and other governmental approvals benefit from the adoption and regular updating of a legally adequate Transit Area Specific Plan.

C. Adoption of the Fee set forth in this resolution, as it relates to services provided by the City to developers and property owners seeking to exercise entitlements; building permits and other governmental approvals is intended to recover costs necessary to prepare and update the Transit Area Specific Plan, consistency with which is a necessary component of those services.

D. The documents and testimony presented supporting this resolution establish that the costs listed as those incurred by the City in preparing the Transit Area Specific Plan are reasonable estimates of the actual costs, and that the Fee recommended is necessary to recover the reasonable, estimated cost of preparing the Specific Plan.

ADOPTION OF FEE

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of as follows:

1. Transit Area Specific Plan Fee Imposed.

A Fee in the amount of 8.37806 cents per square foot of proposed net developable area shall be imposed after the Midtown Transit Specific Plan is adopted on and paid by applicants at the times, and in the amounts, and otherwise apply and be administered as prescribed in this resolution.

2. Application of and Time for Payment of Fee.

Except as provided in Section 5 of this resolution, the applicant shall pay the Fee listed in this Resolution at the time of application for any of the following approvals:

- a. an amendment to the Transit Area Specific Plan;
- b. a land use, conditional use, construction, building, or similar permit;
- c. a variance;

- d. a tentative subdivision or parcel map;
- e. site and architectural review;
- f. a development agreement;
- g. rezoning;
- h. a building permit or any other ministerial permit; and
- i. any other approval granted by the Planning and Neighborhood Services Director, Planning Commission, or City Council.

3. Subsequent Applications.

Once the Transit Area Specific Plan Fee is paid in full, any subsequent application for the same property shall not be required to pay the Fee.

4. Basis for Fee.

The amount of the Fee is based on the estimated cost of preparing the Transit Area Specific Plan and of administering the fee program. If the actual cost of preparing the Transit Area Specific Plan and associated documents is greater or less than 5% of the estimate, the City shall, respectively, require applicants to pay the difference or refund any overpayment.

5. Exemptions.

The following kinds of approvals are exempt from the Fee:

- a. any addition, modification, or improvement to an existing single family dwelling;
- b. any addition, modification, or improvement to an existing nonresidential building or multifamily dwelling, unless the addition, modification, or improvement results in the development of undeveloped property or a complete redevelopment of property;
- c. a temporary use permit;
- d. any approval for a public building or facility;
- e. any approval for a structure not intended for occupancy, and that is accessory to a permitted use including but not limited to fences, antennas, storage tanks, and mechanical equipment; and
- f. final maps and improvement plans.

6. Revision of Fee.

The fee shall be reviewed once upon completion of the Transit Area Specific Plan to assure that the assumptions underlying the calculation of the fee remain valid and that sufficient funds are being collected. If the fee is found inadequate, the City Council may revise it by resolution. When the City has collected funds equal to the costs of preparing the Specific Plan, the Council may revise the fee by resolution to pay for necessary updates of the Specific Plan and associated environmental documents, if any.

7. Severability.

The fees adopted by this Resolution and all portions of this Resolution are severable. Should any of the fees or any portion of this Resolution be adjudged invalid and unenforceable by a body of competent jurisdiction, then the remaining fees and/or Resolution portions shall be and continue in full force and effect, except as to those fees and/or Resolution portions that have been adjudged invalid. The City Council of the City of Milpitas hereby declares that it would have adopted each of the fees and this Resolution and each section, subsection, clause, sentence, phrase and other portion thereof, irrespective of the fact that one or more of the fees or sections, subsections, clauses, sentences, phrases or other portions of this Resolution may be held invalid or unconstitutional.

PASSED AND ADOPTED, this 16th day of August 2005 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

Oct 04 to Apr 05

PHASE II - TRANSIT AREA SPECIFIC PLAN - FY 05-06

STAFF	Weeks	Hours/Week	Hours	Salary	Cost	Weeks	Hours/Week	Hours	Salary	Cost	TOTAL HOURS	TOTAL COST
BUILDING												
Keyvan Iranijad	29	0	0		\$0	60	0.5	30	\$114.67	\$3,440	30	\$3,440
PLANNING												
Tambri Heyden	29	8	232	\$119.15	\$27,643	60	16	960	\$122.74	\$117,835	1192	\$145,478
Dennis Carrington	29	20	580	\$76.71	\$44,490	60	32	1920	\$85.55	\$164,248	2500	\$208,738
Joe Oliva	25	8	200	\$98.86	\$19,773	60	3	180	\$102.98	\$18,536	380	\$38,308
Janice Nadal	25	2	50	\$68.33	\$3,416	60	3	180	\$76.02	\$13,684	230	\$17,100
Cindy Horn	25	1	25	\$64.86	\$1,622	60	2	120	\$68.21	\$8,185	145	\$9,807
Veronica Rodriguez	25	10	250	\$54.25	\$13,563	60	3	180	\$57.68	\$10,383	430	\$23,946
Felix Reliford	25	0.5	12.5	\$98.86	\$1,236	0	0	0		\$0	12.5	\$1,236
ENGINEERING												
Mehdi Khalia	2	4	8	\$102.30	\$818	60	3	180	\$106.80	\$19,224	188	\$20,042
Greg Armendariz	25	1	25	\$113.67	\$2,842	60	3	180	\$122.52	\$22,053	205	\$24,895
Darryl Wong	25	1	25	\$102.30	\$2,557	60	3	180	\$106.80	\$19,224	205	\$21,781
Marilyn Nickel	25	0.5	12.5	\$92.13	\$1,152			0		\$0	12.5	\$1,152
Robert Wang	25	0.5	12.5	\$91.05	\$1,138	60	3	180	\$93.31	\$16,795	192.5	\$17,933
Jaime Rodriguez			0		\$0	60	3	180	\$93.18	\$16,773	180	\$16,773
Mike McNeely	25	0.5	12.5	\$90.00	\$1,125	0	0	0		\$0	12.5	\$1,125
CITY MANAGER'S OFFICE												
Cindy Maxwell	25	0.5	12.5	\$91.16	\$1,140	60	1	60	\$95.09	\$5,705	72.5	\$6,845
Economic Development Mgr.			0		\$0	60	1	60	\$111.27	\$6,676	60	\$6,676
PUBLIC WORKS												
Carol Randisi			0		\$0	60	1	60	\$100.24	\$6,014	60	\$6,014
Dennis Cuciz			0		\$0	60	0.5	30	\$111.63	\$3,349	30	\$3,349
FIRE DEPARTMENT												
Patti Joki	25	0.5	12.5	\$138.63	\$1,733	60	1	60	\$140.20	\$8,412	72.5	\$10,145
Fire Chief			0		\$0	60	0.5	30	\$157.31	\$4,719	30	\$4,719
POLICE DEPARTMENT												
Jim Berg			0		\$0	60	1	60	\$156.13	\$9,368	60	\$9,368
INFORMATION SERVICES												
Terry Medina			0		\$0	60	0.2	12	\$111.75	\$1,341	12	\$1,341
RECREATION												
Bonnie Greiner			0		\$0	60	1	60	\$96.23	\$5,774	60	\$5,774
FINANCE												
Emma Karlen			0		\$0	60	1	60	\$138.25	\$8,295	60	\$8,295
Subtotal - Personnel			1470		\$124,248			4842		\$490,034	6312	\$614,282
City Attorney			0		\$0			100	\$201.00	\$20,100	100	\$20,100
Dennis Wong (Swinerton)			0		\$0	60	3	180	\$170.00	\$30,600	180	\$30,600
ADVERTISING COSTS												
Legal Advertisements	8 * \$700											\$5,600
REPRODUCTION COSTS												
Draft Plan	200 * \$40											\$8,000
Final Plan	200 * \$40											\$8,000
ADEIR	200 * \$20											\$4,000
DEIR	200 * \$20											\$4,000
FEIR	200 * \$20											\$4,000
MAILING COSTS												
Mailing costs	4,000 * \$37											\$1,480
												\$700,062